

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE)	
CAPITAL ONE TELEPHONE CONSUMER)	Master Docket No. 1:12-cv-10064
PROTECTION ACT LITIGATION)	MDL No. 2416
)	
This document relates to: ALL CASES)	

**REPORT OF THE PLANNING MEETING BETWEEN THE INDIVIDUAL PLAINTIFFS
AND THE DEFENDANTS**

1. The following persons participated in a Rule 26(f) conference on December 9, 2013 by telephone:

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2. Initial Disclosures: The parties will complete by January 9, 2014 the initial disclosures

required by Rule 26(a)(1).

3. Discovery Plan.

The individual plaintiffs propose this discovery plan:¹

The attached Individual Plaintiffs' Master Discovery will be deemed served on Capital One by each individual plaintiff effective the date that the Court allows discovery to proceed. Within 30 days thereafter Capital One will serve responses.

Each party may also serve additional discovery subject to the limitations set forth below.

When responding to discovery, each party shall use all information reasonably available to it, including information in the possession of the party's agents.

Capital One proposes this discovery plan:

Capital One proposes that a stay of all proceedings remain in place for the brief period until the class parties' mediation session on January 29, 2014. If a class settlement is not reached that day, the stay will be lifted and a single, coordinated MDL discovery process will begin for all parties. If a class settlement is reached, Capital One proposes that the stay remain in place through final approval of that settlement while Capital One engages in Court-ordered settlement discussions with the individual plaintiffs.

If the parties are not ordered to mediation and the stay is not continued, Capital One proposes the following discovery plan for Items #3 through #4:

Capital One will serve responses within 60 days after the Court allows discovery to proceed.

Capital One will be permitted to serve written discovery on each individual plaintiff as of the date that the Court allows discovery to proceed. Within 60 days thereafter, the individual plaintiffs will serve responses.

(a) Discovery will be needed on these subjects:

Discovery on Capital One will inquire into the issues raised in the Individual Plaintiffs' Master Discovery. To the extent that individual plaintiffs need additional written discovery from Capital One, they will agree with opposing counsel and absent agreement will seek leave of Court.

Discovery will also be sought from other parties in the one matter where there are

¹ Counsel for individual plaintiffs Vadella and Kemmerer circulated a draft of their proposed master discovery and Form 52 Report to all individual plaintiffs. All individual plaintiffs agreed with that proposed Rule 52 Form, the details of which are reflected below, and the Master Discovery, attached as Exhibit A.

multiple defendants (*Vadella*). Plaintiff Vadella will attempt to resolve with those defendants the objections that they raised to the discovery that was served before the case was consolidated into this proceeding, and absent agreement will seek resolution before the Court.

Discovery on the individual plaintiffs will inquire into the issues of standing, consent, and damages, as well as issues surrounding any additional claims brought by individual plaintiffs.

- (b) Dates for commencing and completing discovery, including discovery to be commenced or completed before other discovery:

Individual plaintiffs propose:

Factual discovery to be completed by August 1, 2014.

Capital One proposes:

Factual discovery to be completed by October 1, 2014.

- (c) Maximum number of interrogatories by each party to another party, along with the dates the answers are due:

Individual plaintiffs propose:

25 interrogatories per party, with answers due 30 days after service.

Capital One proposes:

25 interrogatories served on each defendant by individual plaintiffs jointly, with answers due 60 days after service; and
25 interrogatories served by each defendant on each individual plaintiff, with answers due 60 days after service.

- (d) Maximum number of requests for admission, along with the dates responses are due:

Individual plaintiffs propose:

50 requests for admission per party, with answers due 30 days after service.

Capital One proposes:

10 requests for admission served on each defendant by individual plaintiffs jointly, with responses due 60 days after service; and
10 requests for admission served by each defendant on each individual plaintiff, with responses due 60 days after service.

- (e) Maximum number of requests for production of documents, along with the dates responses are due:

Individual plaintiffs propose no limit on the amount of requests for production of documents.

Capital One proposes:

25 requests for production of documents served on each defendant by individual plaintiffs jointly, with responses due 60 days after service; and

25 requests for production of documents served by each defendant on each individual plaintiff, with responses due 60 days after service.

- (e) Maximum number of depositions by each party:

Individual plaintiffs propose: 10

Capital One proposes:

Individual plaintiffs may jointly conduct 5 depositions; and

Defendants may conduct 3 depositions per individual plaintiff.

- (f) Limits on the length of depositions, in hours: 7 hours

- (g) Dates for exchanging reports of expert witnesses:

Individual plaintiffs propose: June 1, 2014

Capital One proposes the following schedule related to expert witnesses:

Dates for identifying expert witnesses:

Plaintiffs: April 1, 2014

Defendants: May 1, 2014

Dates for exchanging reports of expert witnesses:

Plaintiffs: June 1, 2014

Defendants July 1, 2014

- (h) Dates for supplementations under Rule 26(e):

Individual plaintiffs propose: June 1, 2014

Capital One proposes: September 1, 2014

4. Other Items:

- (a) A date if the parties ask to meet with the court before a scheduling order:

Individual plaintiffs propose: February 15, 2014

Capital One proposes: December 19, 2013

- (b) Requested dates for pretrial conferences: N/A
- (c) Final dates for the plaintiff to amend pleadings or to join parties: April 1, 2014
- (d) Final dates for the defendant to amend pleadings or to join parties: April 1, 2014
- (e) Final dates to file dispositive motions:

Individual plaintiffs propose: August 1, 2014

Capital One proposes:

Individual plaintiffs, Capital One, and co-defendants in individual actions may not file dispositive motions without leave of Court or until after any class settlement reaches final approval

- (f) State the prospects for settlement:

Individual plaintiffs' statement: There have been very limited settlement discussions, if any, since the individual plaintiffs were consolidated in this matter.

Capital One's statement: Capital One has settled with nearly 70% of the individual plaintiffs in actions that have been consolidated in this multidistrict litigation. It continues to engage in active negotiation with various individual plaintiffs, and it remains willing to engage in settlement negotiations—and asks that the Court order the individual plaintiffs to participate in settlement discussions or mediation between now and March 1, 2014, while other discovery is stayed. (*See* Capital One's response to Item # 3 above.)

- (f) Identify any alternative dispute resolution procedure that may enhance settlement prospects:

Individual plaintiffs' statement: None at this time.

Capital One's statement: See Capital One's response to Items #3 and Item #3(f).

- (h) Final dates for submitting Rule 26(a)(3) witness lists, designations of witnesses whose testimony will be presented by deposition, and exhibit lists: Not applicable because individual cases may be remanded for trial.
- (i) Final dates to file objections under Rule 26(a)(3): Not applicable because individual cases may be remanded for trial.
- (j) Suggested trial date and estimate of trial length: Not applicable because individual cases may be remanded for trial.
- (k) Other matters: None at this time.

Dated: December 12, 2013

/s/ Carlo Sabatini (with consent)

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*On Behalf of Individual Plaintiffs Vadella and
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Dated: December 12, 2013

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CERTIFICATE OF SERVICE

I certify that on December 12, 2013, a copy of the foregoing **REPORT OF THE PLANNING MEETING BETWEEN THE INDIVIDUAL PLAINTIFFS AND THE DEFENDANTS** was filed electronically. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system.

/s/ Aaron D. Van Oort

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